

SEMINOLE COUNTY GOVERNMENT
BOARD OF ADJUSTMENT
AGENDA MEMORANDUM
(THIS IS NOT A PUBLIC HEARING ITEM)

SUBJECT: APPEAL FROM AN ADMINISTRATIVE DECISION OF THE PLANNING MANAGER TO DENY A REQUEST FOR A BOATHOUSE AND DOCK PERMIT, PRIOR TO THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE IN THE A-10, A-5 & A-3 (RURAL ZONING CLASSIFICATION DISTRICTS); (DAVID E. AXEL, APPELLANT).

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Matthew West **CONTACT:** Matthew West **EXT.** 7353

Agenda Date 06-23-03 **Regular** ☒ **Consent** ☐ **Public Hearing – 6:00** ☐

MOTION/RECOMMENDATION:

1. **UPHOLD** AN ADMINISTRATIVE DECISION OF THE PLANNING MANAGER TO DENY A REQUEST FOR A BOATHOUSE AND DOCK PERMIT, PRIOR TO THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE IN THE A-10, A-5 & A-3 (RURAL ZONING CLASSIFICATION DISTRICTS); (DAVID E. AXEL, APPELLANT).
2. **REVERSE** AN ADMINISTRATIVE DECISION OF THE PLANNING MANAGER TO DENY A REQUEST FOR A BOATHOUSE AND DOCK PERMIT, PRIOR TO THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE IN THE A-10, A-5 & A-3 (RURAL ZONING CLASSIFICATION DISTRICTS); (DAVID E. AXEL, APPELLANT).
3. **CONTINUE** THE REQUEST TO A TIME AND DATE CERTAIN.

(Matthew West, Planning Manager)

GENERAL INFORMATION	DAVID E. AXEL, APPELLANT MILLS COVE HOMEOWNER'S ASSOCIATION, INC.	LDC, SECTIONS 30.102(a) (PERMITTED USES IN THE A-10, A-3 & A-5 DISTRICTS) & 2.3 (DEFINITIONS)
BACKGROUND / REQUEST	<ul style="list-style-type: none">• IN A LETTER DATED APRIL 14, 1002, THE APPELLANT REQUESTED AN INTERPRETATION BY THE PLANNING MANAGER OF SECTION 30.102(a) OF THE LAND DEVELOPMENT CODE (LDC), WHICH ENUMERATES PERMITTED USES IN THE A-10, A-5 & A-3 (RURAL ZONING CLASSIFICATION DISTRICTS).• IN RESPONSE TO THIS REQUEST, THE PLANNING MANAGER DETERMINED THAT BOATHOUSES AND BOAT DOCKS ARE ACCESSORY USES THAT CAN ONLY BE PERMITTED IN THE A-10, A-5 & A-3 DISTRICTS AFTER	

	<p>THE ESTABLISHMENT OF A SINGLE-FAMILY RESIDENCE AS A PRINCIPAL USE.</p> <ul style="list-style-type: none">• CONTRARY TO THIS INTERPRETATION, THE APPELLANT BELIEVES THAT BOATHOUSES & BOAT DOCKS ARE USES THAT CAN BE EXPRESSLY PERMITTED PRIOR TO THE ESTABLISHMENT OF A SINGLE-FAMILY RESIDENCE, WHICH EXPLAINS THE REASON FOR THIS APPEAL TO THE BOARD OF ADJUSTMENT.
STAFF FINDINGS	<ul style="list-style-type: none">• SECTION 2.3 (DEFINITIONS) OF THE LDC DEFINES ACCESSORY BUILDINGS AND USES AS FOLLOWS:<ul style="list-style-type: none">◦ <i>A SUBORDINATE BUILDING OR A PORTION OF THE MAIN BUILDING, THE USE OF WHICH IS INCIDENTAL TO THAT OF THE DOMINANT USE OF THE MAIN BUILDING OR LAND. AN ACCESSORY USE IS ONE WHICH IS INCIDENTAL TO THE MAIN USE OF THE PREMISES.</i>• SECTION 30.102 (PERMITTED USES IN THE A-10, A-5 & A-3 DISTRICTS) OF THE LDC DEFINES BOATHOUSES AND BOAT DOCKS AS USES ACCESSORY TO SINGLE-FAMILY RESIDENCES, WHICH ARE CONSIDERED PRINCIPAL USES WITHIN THOSE DISTRICTS.• STAFF BELIEVES IT IS NOT THE INTENTION OF THE LAND DEVELOPMENT CODE TO PERMIT ACCESSORY USES (e.g., BOATHOUSES, BOAT DOCKS) THAT ARE UNRELATED TO OR INDEPENDENT OF AN ESTABLISHED PRINCIPAL USE (e.g., SINGLE-FAMILY RESIDENCE).• STAFF FURTHER BELIEVES IT IS NOT THE INTENTION OF THE LAND DEVELOPMENT CODE TO PERMIT THE ENUMERATED ACCESSORY USES TO BECOME PRINCIPAL USES OR AN END IN THEMSELVES.
STAFF RECOMMENDATION	<ul style="list-style-type: none">• THE LDC DEFINES ACCESSORY BUILDINGS AND USES, SUCH AS BOATHOUSES AND BOAT DOCKS, AS USES SUBORDINATE AND INCIDENTAL TO THE PRINCIPAL USE OF A SINGLE-FAMILY RESIDENCE IN THE A-10, A-5 AND A-3 DISTRICTS.• THE LDC DOES NOT DEFINE THE TERMS "INCIDENTAL" AND "SUBORDINATE"; THEREFORE, STAFF HAS APPLIED THE CUSTOMARY AND USUAL MEANINGS OF BOTH TERMS TO CONCLUDE THAT ACCESSORY BUILDINGS AND STRUCTURES TO WHICH THE TERMS APPLY ARE DEPENDENT ON OR SUBORDINATE TO A PRINCIPAL USE OF GREATER IMPORTANCE.• FOR THIS REASON, ACCESSORY USES, SUCH AS BOATHOUSES AND BOAT DOCKS CAN ONLY BE PERMITTED AFTER THE ESTABLISHMENT OF A SINGLE-FAMILY STRUCTURE.• THEREFORE, STAFF RECOMMENDS THE BOARD OF ADJUSTMENT CONSIDER THE FINDINGS STATED ABOVE AND UPHOLD THE DECISION OF THE PLANNING

	MANAGER TO DENY A REQUEST FOR A BOATHOUSE AND DOCK PERMIT, PRIOR TO THE CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE.
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April 18, 2003

Mr. David E. Axel:
Axel Real Estate, Inc.
1757 W. Broadway Street, Suite 1
Oviedo, FL 32765

RE: Boathouse boat docks in A-10, A-5 and A-3 districts

Dear Mr. Axel:

Thank you for your letter dated April 14, 2003, concerning the subject above. In response to it, please accept this letter as my official interpretation of section 30.102 Permitted Uses (a):

Single-family residences and uses accessory thereto, including one (1) guest house or cottage, boat docks and boathouses.

All the uses listed after the word "thereto" are considered to be accessory uses. For example, you can't have a guest house without having a principal or main house. Therefore guest house, cottage, boat docks and boathouses are all accessory uses. None of these uses may be permitted without the existence of the principal use which is a single family residence.

I am in agreement with the Building Division's refusal to permit accessory structures in A-10, A-5 or A-3 zoning without the principal use (a single family residence) existing or being built simultaneously. If you wish to appeal my interpretation, please send me a letter of appeal with a check made payable to Seminole County in the amount of \$185.00 and your appeal will be scheduled for the next available Board of Adjustment meeting.

For specific dates or further questions, please contact me at 407-665-7353.

Sincerely,

Matthew West,
Planning Manager



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4/14/2003

Mr. Mathew West, Principal Planner
Seminole County Development Review
1101 East First Street
Sanford, Florida 32771
By facsimile: 665-7456

Re: Boathouse boat dock Permits in A-10, A-5 and A-3 districts

Dear Mr. West,

I am writing you as a director of the Mills Cove Homeowner's Association, Inc. on behalf of the owners of Lots 14 through 23 of Mills Cove (Plat Book 61 Page 44), which all front Lake Mills. The HOA is seeking an interpretation of Section 30.102 subsection 30.102(a) of the Seminole County Land Development Code as written in Ordinance 2000-13, which states:

Within any property assigned the A-10, A-5 or A-3 Rural Zoning Classifications, no building, structure, land or water shall be developed except for the following uses:

(a) Single-family residences and uses accessory thereto, including one (1) guesthouse or cottage, boat docks and boathouses.

The preceding LDC Section differs in a key way from Section 30.202 (b) regarding uses permitted in R-1AAAA, R1-AAA, R1-AA and R1-A districts which states:

(b) Boathouses and boat dock as accessory uses, providing the roof of said boathouse does not exceed ten (10) feet above the mean high water line.

The distinction as interpreted by the HOA is that in the A-10, A-5 and A-3 districts boathouses and boat docks are uses that are specifically permitted whereas in the R-1AAAA, R-1AAA, R-1AA and R-1A districts boathouses and docks are only permitted as accessory uses. It is my understanding that the Seminole County Building Department presently does not share our interpretation and that an attempt to obtain a building permit for any of Lots 14 through 23 of Mills Cove will be rejected when there is not yet a single family residence. Please provide us with an interpretation of this matter.

Sincerely,

David E. Axel

Sec. 30.102. Permitted uses.

Within any property assigned the A-10, A-5 or A-3 Rural Zoning Classifications, no building, structure, land or water shall be developed, except for the following uses:

- (a) Single-family residences and uses **accessory** thereto, including one (1) guest house or cottage, **boat** docks and boathouses.
- (b) Home occupations and home
- (c) Groves and farms for the cultivation and propagation of citrus, vegetables, fruits, berries, nuts, sod and trees.
- (d) Pastures and grasslands for the cultivation and propagation of livestock and the keeping of ponies or horses for the immediate use of the occupant and their guests excluding, however, the commercial raising of swine.
- (e) Plant nurseries and green houses not involved with retail sales to the general
- (f) Poultry
- (g) Dairy
- (h) Fish hatcheries and bait
- (i) Stables, barns, sheds, silos, granaries, windmills and related agricultural
- (j) Roadside stands for the sale of fruits, vegetables and similar products produced on the premises, provided such stand is placed no closer than twenty-five (25) feet to a property line.
- (k) Public elementary
- (l) Landscaping contractors as an **accessory** use to a wholesale nursery or wholesale tree

(Part XXIV, § 2, Ord. No. 92-5, 3-30-92; § 13, Ord. No. 94-15, 12-13-94; Ord. No. 97-18, § 22, 5-13-97; Ord. No. 98-13, § 18, 3-10-98).

Sec. 30.202. Uses permitted.

Within any R-1AAAA, R-1AAA, R-1AA, and R-1A Single-family Dwelling zoning classification, no building, structure, land, or water shall be used except for one (1) or more of the following uses:

- (a) Single-family dwelling and their customary accessory
- (b) Boathouses and boat docks as accessory uses, providing the roof of said boathouse does not exceed ten (10) feet above the mean-high-water line.
- (c) Community residential homes (group homes and foster care facilities) housing six (6) or fewer permanent unrelated residents.
- (d) Public elementary
- (e) Home

(§ 3, Ord. No. 83-23, 7-26-83; § 5.202, LDC, through Supp 16; Part XIII, § 8, Ord. No. 92-5, 3-30-92; Part XXI, §1, Ord. No. 93-1, 2-23-93; Ord. No. 98-13, § 25, 3-10-98).